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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/761,142	01/20/2004	David A. Waldman	3174.1016-001	8777
21005 7590 04/24/2008 HAMILTON, BROOK, SMITH & REYNOLDS, P.C. 530 VIRGINIA ROAD P.O. BOX 9133 CONCORD, MA 01742-9133				
EXAMINER				
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2627				
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04/24/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Advisory Action
Before the Filing of an Appeal Brief

Application No.

10/761,142

Applicant(s)

WALDMAN ET AL.

Examiner

LaTanya Bibbins

Art Unit

2627

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 25 March 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

/Wayne R. Young/
Supervisory Patent Examiner, Art Unit 2627

Continuation of 11, does NOT place the application in condition for allowance because:

Applicant's arguments filed March 25, 2008 have been fully considered but they are not persuasive.

With regard to the interview summary provided in Applicant's arguments filed March 25, 2008, Applicant incorrectly characterized Examiners responses. In an effort to expedite the telephone interview and make Applicant's arguments as well as Examiner's response a part of the written record, Examiner suggested that Applicant provide arguments in writing to which Examiner would again provide a discussion of the generic teachings of Jang. In addition, Examiner invited Applicant to provide an explanation as to why the combination of Dewald in view of the generic teaching of Jang would result in an inoperable device.

Applicant argues that the combination of Dewald and Jang fail to teach element of claim 49. Examiner respectively disagrees.

As noted in the final rejection dated December 19, 2007, Dewald discloses an aspherical reflecting surface having two focal points (the elliptical mirror of Figure 2 element 76 and the discussion in column 6 lines 14-18), one additional reflecting surface (the rotating mirror of Figure 2 element 70), and a motive device for rotating the additional reflecting surface about a first axis (Figure 2 element 72 and the discussion in column 6 lines 1-5 and column 7 line 62- column 8 line 12). While Examiner concedes that the primary reference Dewald fails to teach azimuthal multiplexing, the secondary reference Jang suggests and discloses the combination of both peristrophic and angle multiplexing on page 2975 and 2976. While Jang discloses studying a method to combine three multiplexing techniques (angular, peristrophic, and spatial) by use of wedge prisms, Examiner is not relying on Jang's specific teachings of the preferred embodiment but rather the generic teachings of combining the three multiplexing techniques which is achieved by rotating wedge prisms about 2 axes. Jang additionally discusses (on page 2976) the use of a galvanometer based x-y optical scanning system to control the reference beam (in lieu of the wedge prisms) in which the beam directions are controlled by "two properly tilted mirrors."

Applicant additionally argues that neither Dewald nor Jang provide motivation to modify one another. Again, Examiner respectively disagrees.

As provided in the final rejection dated December 19, 2007, Jang provides a motivation to combine at least 2 multiplexing techniques (one being peristrophic and the other angle multiplexing) which is "to increase the storage capacity of any kind of memory system" on page 2975.

Finally, Applicant argues that a combination of the teachings of Dewald and Jang would result in an inoperable device. Applicant specifically states that "the use of rotatable wedges to control a light beam is not equivalent to the use of rotatable mirrors.

However, Examiners rejection of the claimed invention does not rely on the use of rotatable wedges. As previously indicated, Examiner cites the use of the aspherical reflecting surface having two focal points (the elliptical mirror of Figure 2 element 76 and the discussion in column 6 lines 14-18) and the additional reflecting surface (the rotating mirror of Figure 2 element 70) of Dewald rotated about two axes in the same manner as the wedge prisms of Jang are rotated to achieve the combined multiplexing techniques disclosed by Jang.